

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation into the Gas Market Activities of Southern California Gas Company, San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and their impact on the Gas Price Spikes experienced at the California Border from March 2000 through May 2001.

Investigation 02-11-040  
(Filed November 21, 2002)

**ADMINISTRATIVE LAW JUDGES' RULING**

This ruling rejects for filing the Appeal of Categorization submitted by Southern California Gas Company (SoCalGas) and sets a prehearing conference (PHC).

**Background**

This investigation was initiated to examine the past conduct of the respondents with regard to gas price spikes at the California border from March 2000 through May 2001. The Order Instituting Investigation (OII) provided that the investigation would proceed in two phases. The Commission named the Sempra Energy Companies—SoCalGas and San Diego Gas & Electric Company (SDG&E)—as Respondents in Phase I. Respondents in Phase II are Southwest Gas, Pacific Gas and Electric Company, and Southern California Edison Company.

The OII provided the basic framework for both Phase I and Phase II of the investigation, requiring that, in each of the two phases, respondents present evidence and testimony regarding gas market activity that may have affected gas

prices during the period March 2000 through May 2001. The OII included a preliminary scoping memo for the proceeding, required that a PHC be held within 60 days, and specified that Phase II will commence at a time to be set in a future Commission ruling. While categorizing the investigation as ratesetting, the Commission specified that there may be an adjudicatory phase if the investigation reveals that statutory laws, or rules or orders of the Commission were violated.

### **SoCalGas Appeal of Categorization**

On December 5, 2002, SoCalGas tendered for filing a document titled "Appeal of Categorization." Categorization appeals are governed by Rule 6.4 of the Commission's Rules of Practice and Procedure (Rules), which requires that such an appeal "shall state why the designated category is wrong as a matter of law or policy." SoCalGas does not, however, make any statement about why this proceeding was wrongly categorized; indeed, it agrees with the ratesetting categorization determined in the OII. The Docket Office Advisor has determined that, because the tendered document does not seek a change in the categorization, it is not an appeal. It therefore will not be filed.

Consistent with the OII, the *ex parte* rules as set forth in Rule 7(c) apply to this proceeding, including both Phase I and Phase II, unless and until the Commission determines otherwise.

### **Prehearing Conference**

The Commission will hold a PHC in this investigation at 10 a.m. on Thursday, January 9, 2003, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. At the PHC, we will take appearances and develop an official service list. We will also discuss the scope of the investigation and the procedural schedule for Phase I.

## **PHC Statements**

The preliminary scoping memo in the OII lays out the issues that the Commission identified to be addressed in this proceeding. The scope of this proceeding shall include, but not be limited to, the following issues:

1. Did any of the entities under the Commission's regulatory jurisdiction play a role in causing the increase in California border prices between March 2000 and May 2001?
2. Did any of the utilities' affiliates or parent companies play a role in causing the increase in border prices? Did concerns about affiliates or parents' financial position cause utilities to take actions that may have increased gas costs?
3. What were the primary factors that caused the increase in prices? In addition to the increase in gas costs caused by El Paso's actions, what other factors may have caused gas prices to increase to such high levels? Did recently acknowledged inaccurate reporting of gas price information to energy trade publications by energy trading companies have any affect on published index prices?
4. Did the utilities' gas cost incentive mechanisms (GCIMs) create perverse incentives to increase or otherwise manipulate natural gas prices at the California border? Did SoCalGas' Year 7 and Year 8 operations under the GCIM enable it to exercise market power and/or anticompetitive behavior? If so, should these incentive mechanisms be modified or eliminated to prevent such activity?

Interested persons may file PHC statements, if so desired, no later than January 6, 2003, and shall serve these statements on the temporary service list described herein, as well as on the Assigned Commissioner and assigned Administrative Law Judge (ALJ). Persons filing PHC statements should bring 25 extra copies to the PHC. Parties are encouraged to meet and confer prior to the PHC and to file joint statements to the extent feasible.

If PHC statements are filed, it would be useful for them to address the following items:

1. Identification of any additional substantive issues not identified in the OII that parties believe should be within the scope of the proceeding,
2. Proposed procedural schedules, and
3. Discussion of any other procedural issues necessary to address for a prompt resolution of this proceeding.

### **Service List**

A temporary service list for the proceeding has been created, and was attached to the mailed copy of the OII. An electronic or hard copy of the temporary service list may be obtained from the Commission's Process Office. The Process Office may be contacted by telephone at (415) 703-2021 or by mail at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102.

At the PHC, we will develop the official service list, which will replace the temporary service list and will be posted on the Commission's web site as soon as practicable. The official service list will have three categories: Appearances, State Service, and Information Only.

Persons seeking to become a party in this proceeding should appear at the PHC and complete an appearance form. To determine who should be granted party status, each person will be questioned regarding the planned level of participation. Persons who demonstrate a plan to actively participate in the evidentiary proceeding through presentation of testimony, cross-examination, or submission of briefs will be granted party status and will be listed as Appearances on the official service list. Appearances shall be served with all documents parties submit in connection with the proceeding.

State employees who are not Appearances will be placed on the State Service portion of the official service list either by appearing at the PHC and filling out an appearance form, or by mailing a written request to the Process Office requesting that they be added to the State Service portion of the official service list. The State Service list shall be served with all documents parties submit in connection with the proceeding.

Persons who are not Appearances but want notice of hearings, rulings, proposed decisions, and decisions issued by the Commission will be categorized as Information Only. In addition, all documents served electronically shall be sent to Information Only names who have provided valid e-mail addresses. Persons seeking Information Only status may either appear at the PHC and complete an appearance form or mail a written request to the Process Office requesting that they be added to the official service list for Information Only.

### **Assistance in Participation in Commission Proceedings**

The Commission has a Public Advisor who can assist persons who have questions about the Commission's decisionmaking process and how to participate in Commission proceedings. You can contact the Public Advisor's San Francisco office by mail at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, by e-mail at [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov), or by telephone at (866) 849-8390 (toll free). You can also contact the Public Advisor's Los Angeles office by mail at the California Public Utilities Commission, 320 West Fourth Street, Suite 500, Los Angeles, CA 90013, by e-mail at [public.advisor.la@cpuc.ca.gov](mailto:public.advisor.la@cpuc.ca.gov), or by telephone at (866) 849-8391 (toll free). The TTY numbers for persons with disabilities are (866) 836-7825 (toll free) and (415) 703-5282.

## Discovery

As provided in the OII, parties may commence discovery in Phase I at any time. Parties should raise any discovery disputes according to the procedure outlined in Resolution ALJ-164, which is available on the Commission's web site at the following link:

[www.cpuc.ca.gov/PUBLISHED/FINAL\\_RESOLUTION/2538.HTM](http://www.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/2538.HTM)

Therefore, **IT IS RULED** that:

1. The document submitted by Southern California Gas Company titled "Appeal of Categorization" is rejected for filing.
2. The Commission will hold a prehearing conference (PHC) at 10 a.m. on Thursday, January 9, 2003, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
3. Interested persons may file PHC statements, as more fully set forth above, no later than January 6, 2003. Parties should serve the PHC statements on the temporary service list, as well as on the Assigned Commissioner and assigned Administrative Law Judge and bring 25 extra copies to the PHC.

Dated December 17, 2002, at San Francisco, California.

/s/ CHARLOTTE TERKEURST

Charlotte TerKeurst  
Assigned Administrative Law Judge

/s/ ANNE SIMON

Anne Simon  
Docket Office Advisor/  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judges' Ruling on all parties of record in this proceeding or their attorneys of record.

Dated December 17, 2002, at San Francisco, California.

/s/ KE HUANG

Ke Huang

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.